

26 February 1976

MEMORANDUM FOR: [REDACTED]
Special Counsel to the Director
of Central Intelligence

STAT

FROM : Deputy Director for Intelligence

SUBJECT : Comments on the Rhodes-Cohen Bill

1. Obviously, it is disappointing that the bill does not in some way limit the numbers of committees in Congress to which we must report about intelligence (other than substantive briefings). I gather that we would still have to report to the six committees on covert action as well as a seventh, the new joint committee. Would we still be reporting on intelligence activities to the Armed Services and Appropriations Committees and the new budget committees? If only for the time it takes (both ours and that of Congress), I would hope Congress would be more efficient. The potential for leaks is also staggering.

2. I note on page 6, line 21, that the phrase "restricted data" is used. This has a very technical meaning as far as classification is concerned. [REDACTED]

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[REDACTED] In context, I read the phrase in the non-technical sense. Because of the possible confusion, I recommend some other words be used.

3. Lines 1 and 2 on page 7 imply that Members of Congress get security clearances. This is a new one on me. Who clears the Members?

4. I note that SEC. 9 (a) (1) on page 7 addresses itself to unauthorized release of any information described, but the description says nothing about whether the information is classified or not--just that it deals with intelligence and has not been authorized for release by the joint committee. This could be very restrictive.

5. SEC. 9 (c) (3) on pages 8 and 9 talks about actions against staffers who violate the committee's rules and procedures. The committee's action is dismissal; the Attorney General can look into whether any federal law is broken. Some circumstances have been left out. First, I would recommend that you explore the possibility of the committee bringing contempt procedures against a staffer when simple dismissal is not sufficient. Second, former staffers who violate the confidence but have not violated criminal law do not seem to be covered. Perhaps, contempt procedures could be applied here as well.

EDWARD W. PROCTOR
Deputy Director for Intelligence

Distribution:

Original - Addressee

- 1 - Mr. Lehman with copy of Bill
- 1 - Mr. Walsh with copy of Bill
- 1 - DDI Future of Intelligence File with copy of Bill
- 1 - DDI Chrono w/o copy of Bill

TRANSMITTAL SLIP		
TO: <i>DDI</i>		
ROOM NO.	BUILDING	
REMARKS:		
<p>Comments by COB, 26 Feb please.</p>		
FROM: SC/DCI		
ROOM NO.	BUILDING	EXTENSION

FORM NO. 241
1 FEB 55

REPLACES FORM 36-8
WHICH MAY BE USED.

(47)

THE WHITE HOUSE

WASHINGTON

February 23, 1976

Executive Registry

76-1085

DDI-601-76

MEMORANDUM FOR

ROBERT ELLSWORTH
BILL HYLAND
NINO SCALIA
HAROLD SAUNDERS
MITCH ROGOVIN
DON OGILVIE

FROM:

MIKE DUVAL *Mike*

SUBJECT:

Rhodes-Cohen Bill to Establish a Joint Committee
on Intelligence

This bill, although far from perfect, represents a significant improvement over the analogous bill supported by the Church Committee.

Its major advantages are:

1. It calls for a joint committee, as opposed to two standing committees. This corresponds to the President's recommendation.

2. It provides for a classification system to be used by the committee, to rely on the same standards for classification as are used generally by the Executive Branch.

3. The bill provides sanctions for the unauthorized disclosure of classified information by members of the committee or its staff. Sanctions for members could include expulsion from the committee or censure by the Senate or the House. Sanctions for staff members could include dismissal.

4. The bill does not contain any provision which explicitly allows the committee to release classified information. On the other hand, it has no provision prohibiting it.

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5. One provision would allow the records of the committee to be examined by a member of Congress who is not a committee member only if the member has an appropriate security clearance. ?

6. The committee's legislative jurisdiction would be exclusive. The bill, however, does not appear to deprive other committees of their oversight jurisdiction of intelligence activities.

The bill, however, does have some objectionable features:

1. The committee's oversight jurisdiction would include FBI's foreign intelligence, counterintelligence, and internal security activities within the United States.

2. The various departments and agencies under the committee's jurisdiction would be required to keep it "fully and currently informed" with respect to "any" intelligence activity. The departments and agencies are also required to furnish "any periodic reports requested by the Joint Committee." Conceivably, the committee could require periodic reports on covert actions prior to their implementation.

3. The committee is given exclusive legislative jurisdiction over the authorization of funds for foreign intelligence agencies. However, it is not clear whether the bill is intended to require authorization for appropriation accounts not now subject to authorization.

4. This bill does not amend or repeal the Hughes-Ryan amendment which requires information on covert actions to be passed to six committees of the Congress.

On balance, this bill may be our best hope for defeating the Church Committee bill in its present form.

May we please have your views on the Rhodes bill by Friday, February 27th.

Thank you.

cc: Phil Buchen
Jack Marsh

94TH CONGRESS
2D SESSION

H. J. RES. 806

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 10, 1976

Mr. RHODES (for himself and Mr. COHEN) introduced the following joint resolution; which was referred to the Committee on Rules

JOINT RESOLUTION

To provide for the establishment of a Joint Committee on
Intelligence.

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled,*

3 ESTABLISHMENT

4 SECTION 1. There is hereby established a Joint Com-
5 mittee on Intelligence (hereinafter in this joint resolution
6 referred to as the "joint committee").

7 MEMBERSHIP

8 SEC. 2. (a) The joint committee shall be composed
9 of nine Members of the Senate and nine Members of the
10 House of Representatives to be appointed as follows:

11 (1) five Members of the Senate from the majority

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1 party and four Members of the Senate from the minority
2 party, appointed by the President of the Senate, includ-
3 ing not more than two members from any one of the
4 following committees: the Committee on Appropriations;
5 the Committee on Armed Services; and the Committee
6 on Foreign Relations; and

7 (2) five Members of the House of Representatives
8 from the majority party and four Members of the House
9 from the minority party, appointed by the Speaker of
10 the House, including not more than two Members from
11 any one of the following committees: the Committee on
12 Appropriations; the Committee on Armed Services; and
13 the Committee on International Relations.

14 (b) Vacancies in the membership of the joint committee
15 shall not affect the power of the remaining members to exe-
16 cute the functions of the joint committee and shall be filled in
17 the same manner as in the case of the original appointment.

18 (c) (1) The joint committee shall select a chairman and
19 a vice chairman from among its members at the beginning
20 of each session of a Congress. The vice chairman shall act
21 in the place and stead of the chairman in the absence of the
22 chairman.

23 (2) The chairmanship and the vice chairmanship of
24 the joint committee shall alternate between the Senate and
25 the House of Representatives with each session of a Con-

1 gress. The chairman during each even-numbered year shall be
2 selected by the Members of the House of Representatives on
3 the joint committee from among their number and the chair-
4 man during each odd-numbered year shall be selected by the
5 Members of the Senate on the joint committee from among
6 their number. The vice chairman during each session of a
7 Congress shall be chosen in the same manner from that
8 House of Congress other than the House of Congress of
9 which the chairman is a Member.

10 DUTIES

11 SEC. 3. (a) The joint committee shall exercise exclusive
12 legislative jurisdiction with respect to the authorization of
13 funds in connection with any intelligence activity conducted
14 in any foreign country by any agency or department of the
15 Federal Government, including—

- 16 (1) the Central Intelligence Agency;
- 17 (2) the Defense Intelligence Agency;
- 18 (3) the Intelligence and Research Bureau of the
19 Department of State;
- 20 (4) the National Security Agency; and
- 21 (5) any intelligence component of the Army, Navy,
22 or Air Force.

23 (b) The Joint Committee shall review and study on a
24 continuing basis—

- 25 (1) any intelligence activity conducted in any

1 foreign country by any agency or department of the
2 Federal Government, including any agency or depart-
3 ment described in paragraph (1) through paragraph
4 (5) of subsection (a); and

5 (2) any intelligence activity conducted in the
6 United States by any agency or department of the
7 Federal Government, including—

8 (A) the Department of Justice;

9 (B) the Department of the Treasury; and

10 (C) the Federal Bureau of Investigation.

11 (c) Any bill, resolution, or other matter in the Senate
12 or the House of Representatives relating primarily to any
13 intelligence activity which is conducted by any agency or
14 department of the Federal Government shall be referred
15 to the joint committee.

16 (d) The provisions of clause 2 of rule X of the Rules
17 of the House of Representatives shall apply to the joint
18 committee.

19 POWERS

20 SEC. 4. (a) The joint committee, or any duly author-
21 ized subcommittee thereof, is authorized to sit and act at
22 such places and times during the sessions, recesses, and
23 adjourned periods of the Congress, to require by subpoena
24 or otherwise the attendance of such witnesses and the pro-
25 duction of such books, papers, and documents, to adminis-

1 ter such oaths and affirmations, to take such testimony, to
2 procure such printing and binding, and to make such
3 expenditures, as it considers advisable.

4 (b) The joint committee may make such rules respect-
5 ing its organization and procedures as it considers necessary,
6 except that no recommendation shall be reported from the
7 joint committee unless a majority of the joint committee
8 assent.

9 (c) Subpenas may be issued over the signature of the
10 chairman of the joint committee or of any member designated
11 by him or by the joint committee, and may be served by
12 any person designated by such chairman or member.

13 (d) The chairman of the joint committee or any mem-
14 ber thereof may administer oaths or affirmations to witnesses.

15 (e) The joint committee may permit any individual
16 designated by the President as a liaison to the joint commit-
17 tee to attend any meeting of the joint committee which is
18 closed to the public.

19 INFORMATION FROM FEDERAL AGENCIES AND

20 DEPARTMENTS

21 SEC. 5. Any agency or department of the Federal Gov-
22 ernment described in section 3 (a) (1) through section 3

23 (a) (5) or section 3 (b) (2) (A) through section 3 (b) (2)
24 (C), and any other agency or department of the Federal

25 Government conducting any intelligence activity, shall keep

1 the joint committee fully and currently informed with respect
2 to any such activity. Any such agency or department shall
3 furnish any periodic reports requested by the joint com-
4 mittee with respect to any such activity.

5 REPORTS

6 SEC. 6. The members of the joint committee who are
7 Members of the Senate shall from time to time (but at least
8 annually) report to the Senate, and the members of the
9 joint committee who are Members of the House of Repre-
10 sentatives shall from time to time (but at least annually)
11 report to the House of Representatives, by bill or otherwise,
12 their recommendations with respect to matters within the
13 jurisdiction of their respective Houses which are referred to
14 the joint committee or otherwise within the jurisdiction of
15 the joint committee.

16 CLASSIFICATION OF INFORMATION

17 SEC. 7. The joint committee shall classify information
18 originating within the joint committee, and the records of the
19 joint committee, in accordance with standards used generally
20 by the executive branch of the Federal Government for the
21 classification of restricted data. The joint committee shall
22 establish guidelines under which such information and rec-
23 ords may be (1) maintained; (2) used by the staff of the
24 joint commttee; and (3) made available to any Member of

1 the Congress who requests such information or records and
2 has an appropriate security clearance.

3 RECORDS

4 SEC. 8. The joint committee shall keep a complete rec-
5 ord of all joint committee actions, including a record of the
6 votes on any question on which a record vote is demanded.
7 All records, data, charts, and files of the joint committee shall
8 be the property of the joint committee and shall be kept in
9 the office of the joint committee or such other places as the
10 joint committee may direct.

11 UNAUTHORIZED DISCLOSURE OF INFORMATION

12 SEC. 9. (a) The joint committee shall establish and
13 carry out such rules and procedures as it considers necessary
14 to prevent—

15 (1) the disclosure, outside the joint committee, of
16 any information which (A) relates to any intelligence
17 activity which is conducted by any agency or depart-
18 ment of the Federal Government; (B) is obtained by the
19 joint committee; and (C) is not authorized by the joint
20 committee to be disclosed; and

21 (2) the disclosure, outside the joint committee, of
22 any information which would adversely affect the carry-
23 ing out of any intelligence activity by any agency or
24 department of the Federal Government.

1 (b) No employee of the joint committee or any person
2 engaged by contract or otherwise to perform services for the
3 joint committee shall be given access to any classified infor-
4 mation by the joint committee unless such employee or per-
5 son has received an appropriate security clearance as
6 determined by the joint committee. The type of security
7 clearance to be required in the case of any such employee
8 or person shall, within the determination of the joint com-
9 mittee, be commensurate with the sensitivity of the classified
10 information to which such employee or person will be given
11 access by the joint committee.

12 (c) (1) The joint committee may take appropriate
13 action against any member of the joint committee, or any
14 person serving on the staff of the joint committee, who
15 violates any provision of this section or any provision of
16 section 7.

17 (2) In the case of a member of the joint committee,
18 such action may include (A) the censure of such member
19 by the joint committee; (B) the expulsion of such member
20 from the joint committee; and (C) recommendation to the
21 Senate or the House of Representatives, as the case may be,
22 by the joint committee that such member be censured by
23 the Senate or the House of Representatives.

24 (3) In the case of a person serving on the staff of the
25 joint committee, such action may include the immediate

Contempt?

1 dismissal of such person. The joint committee shall report
2 to the Attorney General of the United States any apparent
3 violation of any Federal criminal law committed by any
4 such person in connection with a violation of any provision
5 of this section or any provision of section 7. The Attorney
6 General, upon receiving any such report, shall take such
7 action as he considers necessary or appropriate.

STAFF

8
9 SEC. 10. (a) In carrying out its functions under this
10 joint resolution, the joint committee may, by record vote of
11 a majority of the members of the joint committee—

12 (1) appoint, on a permanent basis, without regard
13 to political affiliation and solely on the basis of fitness to
14 perform their duties, not more than twenty-four profes-
15 sional staff members and not more than sixteen clerical
16 staff members;

17 (2) prescribe their duties and responsibilities;

18 (3) fix their pay at respective per annum gross
19 rates not in excess of the rate of basic pay, as in effect
20 from time to time, for grade GS-18 of the General
21 Schedule of section 5332 (a) of title 5, United States
22 Code; and

23 (4) terminate their employment as the joint com-
24 mittee may consider appropriate.

25 (b) In carrying out any of its functions under this joint

1 resolution, the joint committee may utilize the services,
2 information, facilities, and personnel of any agency or de-
3 partment of the Federal Government, and may procure the
4 temporary (not to exceed one year) or intermittent serv-
5 ices of experts or consultants or organizations thereof by con-
6 tract at rates of pay not in excess of the per diem equivalent
7 of the rate of basic pay, as in effect from time to time, for
8 grade GS-18 of the General Schedule of section 5332 (a)
9 of title 5, United States Code, including payment of such
10 rates for necessary traveltime.

11 EXPENSES

12 SEC. 11. The expenses of the joint committee shall be
13 paid from the contingent fund of the House of Representa-
14 tives, from funds appropriated for the joint committee,
15 upon vouchers approved by the chairman of the joint
16 committee.

17 DEFINITION

18 SEC. 12. For purposes of this joint resolution, the term
19 "intelligence activity" means—

20 (1) the collection, analysis, production, dissemina-
21 tion, or use of information affecting the relations of the
22 United States with the government of any foreign coun-
23 try or with any political group, party, military force,
24 or other association in a foreign country;

1 (2) any action or activity which is undertaken

2 in support of any activity described in paragraph (1);

3 (3) any covert or clandestine activity affecting the

4 relations of the United States with the government of

5 any foreign country or with any political group, party,

6 military force, or other association in a foreign country;

7 (4) any action or activity which is undertaken to

8 counteract any action or activity described in paragraph

9 (2) through paragraph (4) which is undertaken for

10 the purpose of adversely affecting the security of the

11 United States;

12 (5) the collection, analysis, production, dissemina-

13 tion, or use of information relating to any activity of—

14 (A) any person residing in the United States;

15 or

16 (B) any citizen of the United States residing

17 in any foreign country;

18 who represents a threat to the security of the United

19 States or who may be considered by any department or

20 agency of the United States to represent such a threat;

21 and

22 (6) any covert or clandestine activity undertaken

23 against any person described in paragraph (5);

24 but such term does not include any tactical military intelli-

1 gence activity which is undertaken in a foreign country and
2 which is not related to any policymaking function of the
3 United States.

4 AMENDMENTS TO RULES OF THE HOUSE OF
5 REPRESENTATIVES

6 SEC. 13. (a) Clause 1(c) (1) of rule X of the Rules
7 of the House of Representatives is amended by inserting
8 immediately before the period at the end thereof the follow-
9 ing: “, except for matters exclusively within the legislative
10 jurisdiction of the Joint Committee on Intelligence”.

11 (b) Clause 1(c) (2) of rule X of the Rules of the
12 House of Representatives is amended by inserting imme-
13 diately before the period at the end thereof the following:
14 “, except for matters exclusively within the legislative
15 jurisdiction of the Joint Committee on Intelligence”.

16 (c) Clause 1(c) (10) of rule X of the Rules of the
17 House of Representatives is amended by inserting imme-
18 diately before the period at the end thereof the following:
19 “, except for matters exclusively within the legislative juris-
20 diction of the Joint Committee on Intelligence”.

21 (d) Clause 1(k) (1) of rule X of the Rules of the House
22 of Representatives is amended by inserting immediately
23 before the period at the end thereof the following: “, except
24 for matters exclusively within the legislative jurisdiction of
25 the Joint Committee on Intelligence”.

Section 1: Establishes a Joint Committee on Intelligence.

Section 2: Membership

The Joint Committee shall be comprised of 18 members, 9 from each House, with 5 from the Majority and 4 from the Minority. Members are appointed by the President of the Senate and Speaker of the House. Not more than two members of either House may come from any one of the following committees: Appropriations, Armed Services, and Foreign Relations or International Relations.

The Joint Committee shall select a Chairman and Vice Chairman at the beginning of each session of Congress, and the Chairmanship and Vice Chairmanship shall alternate between the Houses, with a Member from the House serving as Chairman in even numbered years.

Section 3: Duties

The Joint Committee shall have exclusive legislative jurisdiction with respect to authorization of funds in connection with any foreign or domestic intelligence activity by any agency of the Federal Government.

The Joint Committee shall review and study continually any activity which is funded so above.

Any measure introduced in Congress relating primarily to intelligence shall be referred to the Joint Committee.

Section 4: Powers

The Joint Committee may require information of witnesses and materials as it considers advisable and make any rules respecting its organization except that no recommendation shall be reported from the Joint Committee unless a majority assents.

Subpoenas may be issued over the signature of the Chairman or any designated member. The same holds for any administration of oaths to witnesses.

The Joint Committee may permit any individual designated by the President as liaison to the Joint Committee to attend closed meetings.

Section 5: Information from Federal Agencies and Departments

All agencies conducting any intelligence activities shall keep the Joint Committee fully informed and shall furnish any periodic reports on intelligence activity requested by the Joint Committee.

Section 6: Reports

The members of the Joint Committee shall report at least annually to their respective Houses their recommendation within the jurisdiction of the Joint Committee.

Section 7: Classification of Information

The same standards shall be used for classification of materials and records of the Joint Committee as are used generally by the Executive Branch of the Federal Government. The Joint Committee shall establish guidelines under which records will be maintained, used by its staff, and made available to members of Congress who request their use.

Section 8: Records

The Joint Committee shall keep a complete record of all its actions which is to be the property of the Joint Committee and shall be kept as directed by the Joint Committee.

Section 9: Unauthorized Disclosure of Information

The Joint Committee shall set up and carry out such rules as it considers necessary with respect to any unauthorized disclosure of information.

All people with access to information classified by the Joint Committee shall have received an appropriate security clearance as determined by the Joint Committee.

The Joint Committee may take appropriate action against any person who discloses unauthorized information. In the case of a member of the Joint Committee, such action may include the censure of the member by the Committee, expulsion of such member from the Joint Committee, and a recommendation to the appropriate House that such member be censured. In the case of disclosure of classified information by a staff member, action may include the immediate dismissal and a report to the Attorney General of the United States on any apparent violation of any Federal criminal law committed by any such person in connection with an unauthorized disclosure of information.

Section 10: Staff

The Joint Committee shall appoint between 16 and 24 permanent staff members and shall prescribe their duties and pay rate not in excess of GS-18. The Joint Committee may also utilize any service of the agencies of the Federal Government and will remunerate any such agency appropriately.

Section 11: Expenses

The expenses of the Joint Committee shall be paid from the contingent fund of the House of Representatives, from funds appropriated for the Joint Committee, upon vouchers approved by the chairman of the Joint Committee.

Section 12: Definition

"Intelligence activity": any covert or open collection or use of information about people or entities representing a threat to the policy-making function of the United States. More extensive definition in the Act.

Section 13: Amendments to Rules of the House of Representatives
As enumerated in the Act.